IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13256 of 2003

Date of Decision: 14-07-2005

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CD VASAVA - PETITIONER

VERSUS

UNION OF INDIA &OTHERS - RESPONDENTS

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[See Next Page for Full Title]

Coram:

The Hon'ble Mr. Justice Bhawani Singh, Chief Justice

The Hon'ble Mr. Justice H.K. Rathod, Judge

Whether approved for Reporting?

For Petitioner:
MR RV DESAI
For Respondents:
MR BIPIN BHATT, Addl. Standing Counsel for the Central Government

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PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

1 This petition is directed against the judgment of Central Administrative Tribunal, Ahmedabad Bench (for short `the C.A.T.') passed in Original Application No.277 of 1995 dated August 17, 2000.

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Whether Reporters of Local Papers may be allowed to see the Judgment?

2 Pursuant to an advertisement, the petitioner applied for the post of Postman. He was selected, but not offered appointment, although selectees below him in the select list were given appointment. Accordingly, he approached the C.A.T. through Original Application No.764 of 1988 challenging his non-appointment. By order dated 14.07.1993, the C.A.T directed the respondents to consider his case, particularly when selectees junior to him had been appointed. Precisely, the

direction of the C.A.T is to the following effect:-
"***The respondents are directed to give a show-cause notice to the applicant, within 3 weeks of the date of receipt of a copy of this order and to take decision in the matter within 3 weeks from the date of receipt of the applicant's reply to the show-cause notice. The respondents shall communicate their decision in the matter to the applicant, with reasons thereof, within a period of one week after taking the decision. If the decision arrived at by the respondents, aggrieves the applicant, it will be open to him to challenge the decision of the respondents.***
Application partly allowed accordingly. No order as to costs."

3 Therefore, petitioner was given personal hearing. He furnished detailed explanation dated 23.08.1993, but the Senior Superintendent of Post Offices rejected the case of the petitioner for appointment on the ground that false information with regard to registration with the Employment Exchange, though it lapsed, was furnished by the petitioner, therefore, he was not eligible for regular appointment. The order passed by the Senior Superintendent of Post Offices reads:
"***I, the undersigned, Dashrathbhai C. Kayastha, Senior Superintendent of Post Offices, Surat Division, of Surat, has to take decision with regret that because of the false information furnished by you in the application form given as mentioned above, it is not possible to give you regular appointment in the Department as Postman inspite of that fact that you passed in the examination and despite having received training in that connection. And, therefore, your prayer for giving you appointment as Postman allowing your explanation cannot be accepted."***

4 Accordingly, second round of litigation starts when petitioner challenged the above order through Original Application No.277 of 1995. By the impugned order, claim of the petitioner has been rejected by the C.A.T. accepting the explanation of respondent that petitioner gave false information in the application that he was registered with Employment Exchange with Registration No.82/80 dated 10.01.1980. The petitioner possessed the card of Employment Exchange making it clear therein that in the event of non-renewal, registration would stand cancelled in January 1981, which petitioner knew very well. Still, he stated in his application that he was registered with Employment Exchange with Registration No.82/80 dated

10.01.1980. This conduct made him unworthy of employment, therefore, he was not appointed.

5 Shri R.V. Desai, learned counsel for the petitioner reiterates the submissions once raised before the C.A.T., while Shri Bipin Bhatt, learned Additional Standing Counsel for the Central Government, places reliance on the explanation in the affidavit for non-appointment of the petitioner, particularly what has been stated by the Senior Superintendent of Post Offices.

6 After giving careful consideration to the matter, we find no force in this petition. Decisions of the Apex Court in ***Kendriya Vidyalaya Sangathan and others v. Ram Ratan Yadav [(2003) 3 SCC 437], Secy. Deptt. Of Home Secy., A.P. And others v. B. Chinnam Naidu [(2005) 2 SCC 746],*** are also considered. However, these decisions are not applicable to the peculiar facts of this case, mention of which may be made. One of the requirements for appointment is that candidate should have been registered with the Employment Exchange making him/her eligible for consideration against direct quota. Petitioner was registered with the Employment Exchange in 1980. This registration was to lapse in January 1981. Advertisement for the post was in 1983. Employment Exchange card possessed by the petitioner mentions the period during which registration survives and lapses, meaning thereby, in case before the expiry of the validity period registration is not renewed, it lapses. It is undeniable that petitioner did not renew the registration, therefore, it lapsed. Although it had lapsed, still he stated in the application that he was registered with Employment Exchange with Registration No.82/80 dated 10.01.1980, thereby making him eligible for filing the application for consideration for regular appointment. This statement is clearly misrepresentation of material facts. Contention that even without registration with Employment Exchange, petitioner could be considered for appointment against direct quota post is baseless. Registration with Employment Exchange means, registration which is valid on the date of application. Had he applied directly for the post in question, matter could be different, he could claim consideration on the ground that the candidate applying directly to the post be also considered along with candidates applying through Employment Exchange. Petitioner, in this case, has deliberately misrepresented the material fact and made himself eligible for consideration, which he could not claim

had he not made mention of registration with Employment Exchange. With this background, the assessment made by the C.A.T is justified. The stand of the respondents that petitioner gave false information in the application, thereby making him unworthy of appointment, is also fully justified.

7 Therefore, what emerges out of the aforesaid discussion is that there is no merit in this petition, the same is dismissed leaving the parties to bear their own costs. Rule is discharged.

(BHAWANI SINGH)
Chief Justice

(H.K. RATHOD)
Judge

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